

**MAGISTRATE JUDGES
PURCHASE OF PERSI MEMBERSHIP SERVICE
POLICY MANUAL**

~~ revised by the Supreme Court /February 15, 2007 ~~

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POLICIES RELATING TO APPLICATION AND IMPLEMENTATION OF SENIOR MAGISTRATE JUDGES FUND

I. **Scope and Purpose of Rules.** These rules are adopted by the Idaho Supreme Court (Court) for the purpose of administering and supervising the purchase of additional membership service in the Public Employment Retirement System (PERSI) for retiring magistrate judges through the use of funds in the Senior Magistrate Judges Fund, under the provisions of Idaho Code §§ 1-2224 and 59-1363. The purchase of such additional membership service is intended to provide an incentive for magistrate judges to continue to be available as senior judges following retirement, thus providing a pool of senior judges that will assist in handling the increasing judicial caseload and contributing to the efficiency and improvement of the judicial branch.

II. **Eligibility.** To be eligible for the purchase of additional membership service under these provisions, the applicant must be an active magistrate judge who will have served in that capacity for at least ten (10) years at the time of retirement. Senior magistrate judges and other retired magistrate judges are not eligible for such purchase of additional membership service.

III. Applications.

(a) A magistrate judge wishing to apply for the purchase of additional membership service must submit an Application for Purchase of PERSI Membership Service (Application) on a form approved by the Administrative Director of the Courts, which will include a statement by the applicant of the approximate number of days the applicant would be willing to commit to serve each year as a senior judge, and the approximate number of such days on which the applicant would be willing to commit to travel to, and serve as a senior judge in, counties or districts other than the applicant's county or district of residence.

(b) A magistrate judge who intends to retire between July 1 and December 31 of any calendar year must submit an Application no later than January 1 of that year. A magistrate judge who intends to retire between January 1 and June 30 of any calendar year must submit an Application no later than July 1 of the preceding year.

(c) The applicant shall also request from PERSI an estimate of the cost of the purchase of additional membership service based on the proposed retirement date in an amount of months equal to: (i) forty-eight (48), if the applicant will have served as a magistrate judge for twenty (20) years or more at the time of retirement; or (ii) in all other cases, one-fifth (1/5) of the number of months that the applicant shall have served as a magistrate judge at the time of retirement. The applicant shall forward this information in writing as part of the Application.

IV. Evaluation and Approval of Applications.

(a) The Court shall evaluate the Applications that it has received by January 1 and July 1 of each year and shall determine which Applications, if any, to approve.

(b) The criteria considered by the Court in evaluating an Application shall include, but not be limited to, the following:

- (1) Years of service as a magistrate judge;
- (2) Willingness to serve as a senior judge, including the number of days the applicant is willing to commit to serve each year and the applicant's willingness to travel;
- (3) Case management abilities, including cases adjudicated and adherence to applicable time standards;
- (4) Contributions to the improved administration of justice during the applicant's tenure in office, including service on judicial committees, presiding over problem-solving courts, and other innovative efforts undertaken;
- (5) Attendance at judicial and legal educational programs and conferences;
- (6) Ability of the applicant to meet the needs of the judiciary;
- (7) The outcome of any disciplinary proceedings by the Court, the Judicial Council or the Idaho State Bar, or removal proceedings before the District Magistrates Commission, and any information obtained in the course of such proceedings.
- (8) The availability of funds in the Senior Magistrate Judges Fund for the purchase of PERSI membership service.

(c) No Application shall be approved while any complaints or disciplinary proceedings involving the applicant are pending before the Judicial Council or the Court.

(d) The Court may rescind its approval of an Application at any time before the applicant's retirement date or payment for purchased service, whichever first occurs, for any of the following reasons:

- (1) The resignation or retirement of the applicant before the planned retirement date;
- (2) The discipline or removal of the applicant under the provisions of Idaho Code § 1-2103A; or

(3) Any circumstance or information the Court may determine relevant to the eligibility or fitness of the applicant to serve as a senior judge or to the applicant's eligibility for the purchase of additional membership service.

(e) If disciplinary proceedings under Idaho Code § 1-2103A are instituted following the approval of an Application, the Court may postpone the applicant's retirement and the purchase of PERSI membership service for the applicant while the disciplinary proceedings are pending, or may rescind its approval of the Application if payment for the purchased service has not been made.

V. Purchase of PERSI Membership Service.

(a) The number of months of additional membership service purchased for an applicant whose Application has been approved will be calculated as one-fifth (1/5) of the number of months that the applicant will have served as a magistrate judge at the time of retirement, up to a maximum amount of forty-eight (48) months of additional membership service. The Court may offer an approved applicant the purchase of a lesser number of months of PERSI membership service or a later retirement date, which the applicant may accept or reject.

(b) The Court shall authorize the purchase of additional membership service in the amount determined under subsection (a) of this Rule from the Senior Magistrate Judges Fund, subject to availability of funds and appropriation by the Legislature. The additional membership service shall be purchased at the time of the applicant's retirement.

(c) Neither the approval of the Application, nor the purchase of additional membership service pursuant to these Rules and to Idaho Code §§ 1-2224 and 59-1363, shall constitute any guarantee or assurance that the applicant will be given any actual assignments as a senior judge, or that the applicant shall be employed in any other capacity by the Court or by the State of Idaho.

(d) The purchase of additional membership service shall be subject to any restrictions established by PERSI or by the United States Internal Revenue Service and to any other restrictions or limitations established by law. It is the applicant's responsibility to seek professional guidance with respect to the legal and financial implications of the purchase of additional membership service.

(e) An approved applicant shall not be given any assignment or otherwise be employed by the Court in any way until more than ninety (90) days after the applicant's effective date of retirement unless the applicant had reached service retirement age prior to the effective date of retirement.

VI. Notification and Acceptance or Rejection.

(a) The Court shall notify the applicant of the decision to approve or not approve the Application.

(b) If the Court has approved the Application, the applicant shall notify the Court in writing of the applicant's decision to accept or reject the position of senior judge and the purchase of additional membership service by the thirtieth (30th) day after notification of the Court's decision or by the day before the effective date of retirement, whichever is earlier. The applicant's failure to notify the Court of the decision to accept or reject within the notification period shall be treated as a rejection of the designation as a senior judge and of the purchase of additional membership service.

(c) If the Court has not approved the Application, the applicant shall have the option of:

(1) Retiring on the planned retirement date or at another time of the applicant's choosing; or

(2) Not retiring and continuing to serve as a magistrate judge.

(d) An applicant whose Application has been denied and who chooses to retire may submit an application to be designated a senior judge. An applicant who chooses to continue to serve as a magistrate judge shall remain eligible to submit a subsequent Application for Purchase of PERSI Membership Service.

(e) By accepting designation as a senior judge, the applicant agrees to:

(i) maintain a residence within the state;

(ii) not engage in the practice of law other than as a mediator or arbitrator or in a similar alternate dispute resolution position;

(iii) not accept a position in another branch of state government or any political subdivision;

(iv) not accept a position in the government of the United States or of another state or nation;

(v) take, subscribe and file with the Secretary of State the oath prescribed in Idaho Code § 1-2221(7); and

(vi) comply at all times with the Idaho Code of Judicial Conduct.

IN RE: SENIOR MAGISTRATE
JUDGES FUND

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ORDER

The Court having been authorized by Idaho Code § 1-2224(3) to adopt rules for the application and implementation of the statutory provisions relating to the Senior Magistrate Judge Fund, and having reviewed a recommendation from the Administrative Conference for such rules,

NOW, THEREFORE, IT IS HEREBY ORDERED that the attached Rules for the Application and Implementation of the Senior Magistrate Judges Fund are adopted pursuant to Idaho Code § 1-2224(3).

IT IS FURTHER ORDERED that magistrate judges who wish to submit Applications for Purchase of PERSI Membership Service, and who intend to retire between January 1 and June 30, 2007, must submit such Applications no later than November 1, 2006.

IT IS FURTHER ORDERED that the effective date of this Order shall be the 26th day of September, 2006.

DATED this 26th day of September 2006.

By Order of the Supreme Court

_____/s/_____
Gerald F. Schroeder
Chief Justice

ATTEST: ____/s/_____
Clerk

IN THE SUPREME COURT OF THE STATE OF IDAHO

APPLICATION FOR PURCHASE OF PERSI MEMBERSHIP SERVICE

Pursuant to Idaho Code §§ 1-2221 AND 1-2224, I herewith apply for the court's designation of me as a senior judge and for the purchase of PERSI membership service through the Senior Magistrate Judges Fund, and in support of this application, I state the following:

1. I, _____, intend to retire as a judge of the Magistrate Division of the District Court for the _____ Judicial District in the County of _____ on _____.
(LAST DAY IN OFFICE)

I began service as a judge of the Magistrate Division on _____.

2. I will not, or did not, retire under the provisions of Section 59-1352, Idaho Code.
3. I hereby consent for the Idaho Judicial Council and the District Magistrates Commission for the _____ Judicial District to disclose and discuss with the Idaho Supreme Court its records relating to my judicial service and for this purpose, waive any privilege of confidentiality that I may have in respect to these records.
4. I will advise the Administrative Director of the Courts no later than fifteen (15) days prior to engaging in any act that would cause me to be ineligible for assignment under Section 1-2221(7), Idaho Code.
5. If I am designated as a senior judge, I will promptly take, subscribe and file with the Idaho Secretary of State the oath of a senior judge prescribed in Section 1-2221(7), Idaho Code.
6. I am familiar with the criteria considered by the Supreme Court in reviewing this application for purchase of PERSI membership service as set forth in the Policies Relating to Application and Implementation of Senior Magistrate Judges Fund section of the Magistrate Judges Purchase of PERSI Membership Service Policy Manual, and ask the Court to consider the following information: (Attach additional pages if the following space is insufficient.)

(a) Applicant's adherence to Code of Judicial Conduct.

(b) Applicant's case management abilities, including cases filed, dispositions, and adherence to applicable time standards.

(c) Applicant's contributions to the improved administration of justice during applicant's tenure in office.

(d) Applicant's attendance at judicial and legal educational programs and conferences.

(e) Other relevant information that applicant wishes the Supreme Court to consider.

7. Please state the approximate number of days you would be willing to serve as a senior judge each year, bearing in mind the limitation of Idaho Code § 1-2221(5) on the compensation that may be paid in any fiscal year for service as a senior judge: _____.

Please state the approximate number of such days on which you would be willing to serve as a senior judge in a county or district other than the county or district where you reside:
_____.

Neither the request for this or any other information in this application, nor the approval of the application, nor the purchase of PERSI membership service shall constitute any guarantee or assurance that the applicant will be given any actual assignments as a senior judge or that the applicant will be employed in any capacity by the Idaho Supreme Court or the State of Idaho.

8. If approved as a senior judge, I will diligently perform all case assignments and agree to submit in connection with any request for compensation a certification that there is not in my hands any matter in controversy finally submitted to me longer than thirty (30) days. I further understand that I will not be compensated for any Senior Judge services that I have performed if there is any matter in controversy that I have not decided within thirty (30) days of its final submission for determination.
9. I hereby acknowledge that I understand approval as a Senior Judge does not guarantee assignment as a Senior Judge

Signature

(Printed Name)